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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

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11 United States of America) CV 10-9766,
12) ✓CR 04-732 RSWL
13)
14) ORDER RE: Rule 59(e)
15) Motion for
16) Reconsideration to Alter
17) or Amend Judgment [15]
Ray Maxwell,
Defendant/Petitioner.

18 Before the Court is Petitioner Ray Maxwell's
19 ("Petitioner") Rule 59(e) Motion for Reconsideration to
20 Alter or Amend Judgment [15]. Having reviewed all
21 papers submitted pertaining to this Motion, the Court

22 **NOW FINDS AND RULES AS FOLLOWS:**

23 The Court hereby **DENIES** Petitioner's Rule 59(e)
24 Motion for Reconsideration to Alter or Amend Judgment
25 [15]. In this Motion, Petitioner requests that the
26 Court reconsider its previous Order denying
27 Petitioner's Motion Under 28 U.S.C. § 2255 to Vacate,
28 Set Aside, or Correct Sentence by Person in Federal

1 Custody ("2255 Motion") [14].

2 In the 2255 Motion, Petitioner challenged the
3 validity of his guilty plea and his current sentence by
4 bringing a claim of ineffective assistance of counsel.
5 Petitioner claimed that because he was under the
6 influence of medications to treat his mental illness at
7 the time of his guilty plea, he was not competent to
8 accept the plea deal or to plead guilty, and his trial
9 counsel rendered ineffective assistance of counsel by
10 allowing him to do so. Petitioner also requested in
11 the alternative that the Court hold an evidentiary
12 hearing to evaluate whether Petitioner was indeed
13 incompetent at the time of his guilty plea so as to
14 render his guilty plea invalid. In denying
15 Petitioner's 2255 Motion, the Court found that
16 Petitioner had not asserted a viable ineffective
17 assistance of counsel and was not entitled to an
18 evidentiary hearing.

19 Federal Rule of Civil Procedure 59(e) permits a
20 court to alter or amend a judgment previously entered.
21 Fed. R. Civ. P. 59(e). The term "judgment" as used in
22 the Federal Rules of Civil Procedure includes "a decree
23 and any order from which an appeal lies." Fed. R. Civ.
24 P. 54(a). Under Rule 59(e), it is appropriate to alter
25 or amend a judgment if "(1) the district court is
26 presented with newly discovered evidence, (2) the
27 district court committed clear error or made an initial
28 decision that was manifestly unjust, or (3) there is an

1 intervening change in controlling law." Zimmerman v.
2 City of Oakland, 255 F.3d 734, 740 (9th Cir. 2001).

3 Upon review, the Court finds that Petitioner has
4 not submitted any new facts or law that were not
5 considered in this Court's previous denial of
6 Petitioner's 2255 Motion. Moreover, the Court finds
7 that it did not commit clear error in both rejecting
8 Plaintiff's ineffective assistance of counsel and
9 denying Plaintiff's request for an evidentiary hearing.
10 Furthermore, the Court finds that the denial of
11 Plaintiff's 2255 Motion was not manifestly unjust.

12 More specifically, with regards to the evidentiary
13 hearing, the Court finds that the record conclusively
14 disproves Petitioner's claim of incompetence, and an
15 evidentiary hearing is still not required. See, e.g.,
16 United States v. Meija-Mesa, 153 F.3d 925, 929 (9th
17 Cir. 1998) ("The district court has discretion to deny
18 an evidentiary hearing on a § 2255 claim where the
19 files and the records conclusively show that the movant
20 is not entitled to relief.").

21 Accordingly, Petitioner's Rule 59(e) Motion for
22 Reconsideration to Alter or Amend Judgment is **DENIED**.
23

24 **IT IS SO ORDERED.**

25 DATED: March 9, 2012

26 RONALD S.W. LEW
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HONORABLE RONALD S.W. LEW
Senior, U.S. District Court Judge